

Message Text

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E.O. 11652: N/A

TAGS: CASC, CGEN

SUBJECT: NAVY RULING CONCERNING VALIDITY OF DIVORCES IN JAPAN

1. EMB CONCERNED ABOUT RULING BY NAVY FAMILY ALLOWANCE ACTIVITY, NEW FED BLDG, CLEVELAND, OHIO, OVER SIGNATURE OF PETER P. UZON TO EFFECT THAT DIVORCES OBTAINED IN JAPAN BY NAVY PERSONNEL ARE INVALID. RULING APPARENTLY BASED ON DECISION IN NY COURT ON THE VALIDITY OF MEXICAN QUICKIE DIVORCE. THIS NAVY OFFICE APPARENTLY CONTENDS THAT SERVICEMEN STATIONED IN JAPAN CANNOT ESTABLISH LEGAL RESIDENCE AND THEREFORE ANY DIVORCE IS INVALID.

2. FACTS OF CASE IN POINT ARE AS FOLLOWS:

ETN2 JAMES C. OWENS, JR. MARRIED BARBARA JEAN LOUGHEAD, ALSO USC, IN JAPAN ON 4 FEB 71. ON 2 FEB 73, BOTH PARTIES APPEARING IN PERSON, THE YOKOHAMA FAMILY COURT, YOKOHAMA, JAPAN, GRANTED A DIVORCE. AFTER FIRST OBTAINING NAVY APPROVAL, OWENS THEREAFTER, ON 2 NOV 73 MARRIED TEMPEST LYNN ESTRUP, ALSO A USC, IN STRICT ACCORDANCE WITH THE LAWS OF JAPAN. IT IS THIS SECOND MARRIAGE WHICH NAVY FAMILY ACTIVITY HAS QUESTIONED. ACCORDING TO BASE LEGAL OFFICER, IN ORDER FOR TRAVEL ORDERS TO BE ISSUED TO INCLUDE SECOND WIFE, IT IS REQUIRED THAT OWENS FIRST OBTAIN A DIVORCE IN THE U.S. AND THEN REMARRY HER. TIME IS NOW CRITICAL TO OWENS AS HE IS BEING TRANSFERRED TO U.S. AND HAS NO FUNDS TO PAY WIFE'S TRANSPORTATION. LEGAL OFFICER AT ATSUGI NAVAL AIR FACILITY, JAPAN, UNCLASSIFIED

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WHERE OWENS IS STATIONED, INFORMED CONGEN THAT THIS

RULING BY CLEVELAND, WITH WHICH HE DOES NOT AGREE, HAS FORCED HIM TO ADVISE ALL NAVY PERSONNEL THAT NAVY FAMILY ACTIVITY CONSIDERS DIVORCE IN JAPAN IS INVALID AND HE MUST COUNSEL THEM TO SECURE DIVORCES ONLY IN U.S.

3. THIS RULING BY NAVY ALLOWANCE ACTIVITY IS APPARENTLY CONTRARY TO GENERAL LEGAL PRINCIPLES UNDER WHICH FOREIGN SERVICE HAS BEEN GUIDED FOR YEARS: NAMELY, THAT THE VALIDITY OF A MARRIAGE (OR DIVORCE) IS DETERMINED BY LAWS OF THE COUNTRY IN WHICH IT IS CELEBRATED OR TAKES PLACE. IT SHOULD BE NOTED THAT NEITHER ARMY NOR AIR FORCE IN JAPAN FOLLOW THE NAVY RULING.

4. EMB WOULD APPRECIATE DEPT ASSISTANCE IN RESOLVING THIS PROBLEM WITH NAVY ACTIVITY AS IT PRESENTS MANY DIFFICULTIES IN PROVIDING CORRECT COUNSEL AND ASSISTANCE TO NAVY PERSONNEL. PRESUMABLY IT WOULD HAVE FAR REACHING EFFECTS ON LIVES OF NAVY PERSONNEL WHEREVER THEY MAY BE STATIONED ABROAD. RESPONSE NEEDED SOONEST.

5. CONGRESSWOMAN GRIFFITH HAS QUERIED NAVY ON THIS CASE.
HODGSON

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